Department of Justice Canada | Ministère de la Justice Canada

Canada

Speaking Notes for
THE HONOURABLE ROB NICHOLSON, P.C., Q.C.,
M.P. for Niagara Falls
Minister of Justice and Attorney General of Canada

for the

Canadian Bar Association
Canadian Legal Conference and Expo
"Dialogue with the Minister"

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Check against delivery

Introduction and Greetings
Thank you, (emcee), for your kind introduction, and for welcoming me so warmly to this beautiful city during its 400th anniversary year.

I'd like to express my appreciation to the Canadian Bar Association for inviting me to speak to you today, and to the many volunteers who organize this important annual event for our profession.

I am honoured to be part of a roster of eminent speakers who are sharing their insights throughout this conference.

I am also pleased to be among you, who, as members of the CBA and fellow lawyers, are so strongly committed to improving the justice system and fulfilling your roles as officers of the court.

Where I Come From
This is the first time I'm addressing you as a group – or at least the first time in person, as I was not able to attend last year's conference.

For this reason, I would like to take just a minute to tell you a little bit about myself.

I have always had a deep respect for the law.

I practised law in a small firm for a number of years in Niagara Falls, and I am a very proud, lifelong resident of that community.

I knew that I wanted to be a lawyer from the time I was a boy. I had the impression early on that it was a fascinating and challenging profession, and I still believe this to be true.

But I also wanted to emulate the politicians I admired, and to be involved in public life.

So it is truly an honour for me to be Minister of Justice and Attorney General of Canada and to follow in the footsteps of my predecessors, such as Sir John A. Macdonald, our country's first Minister of Justice and, of course, our first Prime Minister.

I should also mention that Québec is not alone in marking an important anniversary this year – it is also the 140th anniversary of the Department of Justice.

Law and Politics
I have always believed that law and politics are closely intertwined.

As a Member of Parliament, I approach my relationships with constituents in much the same way as does a lawyer with a client.

That is, I take the time to listen, I respect the opinions of others. And above all, I strive to live up to the standards that are expected of me in my profession.

This approach is what guides me in my role as Canada's Minister of Justice and Attorney General.

As Minister of Justice & Attorney General of Canada
I am determined to do my part to maintain the integrity of the justice system – to making it more efficient and effective and to meet the expectations of Canadians in the 21st century.

This ability to listen, along with my belief that we all have a role to play in upholding our justice system, have helped me on Parliamentary committees to appreciate the views of all those who are part of the process. This includes the valuable input of the CBA.

We have not, on every occasion, agreed. But on each occasion, the genuine passion of CBA representatives has been evident.

It has not passed unnoticed, or without appreciation.

A Greater Responsibility
Within the legal community, I have had the privilege of working with people of the highest standards of conduct.

We must continue to uphold these standards.

We all know the importance of maintaining the trust of our clients.

But we also have a greater responsibility: that of earning and maintaining the trust of all Canadians, each of whom has a stake in our system of justice.

You recognize this yourselves, and to that end the CBA has established the President's Award, among others, to celebrate members who have made outstanding contributions to the profession of law and to public life.

It is especially important for all of us to reaffirm our individual and collective responsibilities to the justice system as we face ever-growing delays and degrees of complexity in all kinds of legal proceedings.

You have no doubt found evidence of this in your own practices.

Moreover, a number of distinguished jurists have expressed the same concerns, and all of them point to professionalism of counsel as a crucial element in improving the efficiency of the criminal justice system.

No less an authority than the Chief Justice of the Supreme Court, the Right Honourable Beverley McLachlin has cited both pre-trial motions based on the *Charter of Rights and Freedoms* and

changes in the law of evidence as increasing the length of trials, with motions themselves that *"regularly last two to three times longer than the trial itself."*

The Honourable Justice Michael Moldaver of the Ontario Court of Appeal has even stronger words on this matter, suggesting that nearly all issues raised by the Charter have been litigated to the Supreme Court and have made their way into jurisprudence, and that counsel should be more judicious in their use of pre-trial motions that invoke the Charter.

These concerns have reached the Ontario government, which recently appointed University of Toronto professor Michael Code and Justice Patrick LeSage to review mega-trials and the various causes of delay in criminal case procedures.

Professor Code has already come up with possible solutions in a recent report. As he states:

"Making responsible admissions of matters that can not realistically be disputed, refusing to make frivolous arguments that have no real basis in fact or law and treating your opponent with respect and courtesy are all hallmarks of the professionally responsible lawyer."

Where The Solutions Lie
Now it may sound as if all blame rests with the bar.

Nothing could be further from the truth.

As Justice Moldaver said back in 2005,

"The problem is a collective one. It belongs to Parliament, it belongs to the judiciary, it belongs to Crown attorneys, it belongs to the police, and yes, it belongs to the defence bar."

These sentiments are equally true today.

The truth is, there is no single segment of the legal system that is causing the problem alone.

Nor can any single group be responsible for the solution.

Shared Duties in the Justice System
We all have roles to play in making the system work more efficiently.

For example, at the federal level, our Government has a clear role and obligation to Canadians to maintain the integrity of the justice system through enacting good laws and supporting programs that improve access to justice.

As well, provincial and territorial governments have the responsibility to administer justice and regulate how Crown counsel perform their duties.

Above and beyond these areas of jurisdiction, the provincial and territorial governments have also embarked on reviews of the justice system with a view to improving access and efficiency.

This is going on now in British Columbia. In Ontario, a summary report by Justice Coulter Osbourne on civil law reform has recommended changes to the Rules of Civil Procedure, as well as best practices for the profession.

But what about our *shared* duties as stewards of the justice system?

There are many areas in which we can work in partnership to accomplish these goals.

Last November, at our Federal/Provincial/Territorial ministers' meeting, ministers agreed on recommendations for legislative amendments that will lead to better management of mega-trials.

Our Government takes those recommendations seriously, and also looks forward to those of the LeSage-Code report.

My Department continues its work on the Steering Committee on Justice Efficiencies & Access to the Justice System.

We have no choice but to act within our own spheres and collectively. If not, the pressure will be on our legislatures to intervene and impose limitations on the trial process – as undesirable as that may be.

Accomplishments and Priorities
As I just mentioned, our Government is committed to maintaining the integrity of the justice system, and we have taken steps to fulfill that commitment.
Bill C-13
For example, we have made important technical adjustments to the *Criminal Code* through Bill C-13, which recently received Royal Assent.

These changes affect areas such as protection for victims, sentencing, the execution of search warrants, levying fines for summary offences and access to justice in both official languages.

The end result quietly improves the machinery on which our justice system depends.

Bill C-31
We have also amended the *Judges Act* through Bill C-31 to allow for the appointment of 20 new judges to provincial and territorial superior trial courts, to address backlogs and delays, and to ensure that a strong mechanism exists for the resolution of the specific claims of our First Nations.

I am particularly proud of the progress our Government has made in other areas of life for Aboriginal people, including establishing the Indian Residential School Settlement Agreement and the Truth & Reconciliation Commission.

We are grateful to the Aboriginal leaders whose advice helped us reach this milestone.

Human Rights Protection
We have also enacted legislation amending the *Canadian Human Rights Act* to extend human rights protections to all First Nations communities.

This ends a gap that left many individuals on reserves, a great many of them women, without access to the remedies that are now available to them under the Act.

But we must still address other pressing issues, including the fact that Aboriginal people are over-represented in the justice system.

Aboriginal Justice Strategy Announcement
And so I am very pleased to formally announce today that our Government has renewed its commitment to the Aboriginal Justice Strategy until 2012, and will make an additional investment of $40 million for a total of $85 million over five years.

The Aboriginal Justice Strategy empowers Aboriginal communities to take greater responsibility for the administration of justice, further reducing crime and strengthening communities in remote areas, off reserves and in urban settings.

By re-committing and increasing our support to this Strategy, the Government of Canada will be better able to continue its partnerships with Aboriginal communities, service providers and our provincial and territorial partners to reduce crime at the community and regional levels.

This funding will help support community-based justice projects that include diversion programs, sentencing alternatives and mediation programs – projects that achieve real results.

Not only is the principle right, the results are impressive.

My officials continue to work with partners across Canada's justice system, including judges, provincial and territorial officials and members of the legal community, to improve justice for Aboriginal peoples.

We are proud to continue to support the Aboriginal Justice Strategy as part of our overall commitment to safer communities.

Supreme Court of Canada Justice
We are equally committed to improving transparency and accountability in justice matters.

As you are no doubt aware, we are in the process of selecting a Justice for the Supreme Court of Canada following the retirement of Mr. Justice Bastarache.

To that end, I have been discussing the matter with my counterparts in the Atlantic provinces and the legal community.

And as we did with the appointment of Mr. Justice Rothstein in 2006, our Government has put in place a process which balances the need for transparency with the need to preserve judicial independence and maintain appropriate relationships among Parliament, the Courts and the executive.

I look forward to the conclusions of the Parliamentary Selection Committee, a body established by the Government to involve parliamentarians in a meaningful way in the selection process.

We have also done our part to increase efficiency by appointing judges to fill vacancies in provincial superior courts – many of which existed before this government came to power.

To date, our Government has appointed over 200 highly qualified individuals to the bench. Merit, as always, drives this process.

We expect the same high standards of ethical and responsible behaviour from those we appoint to the bench as we do from one another, as esteemed colleagues.

In fact, who here today is unaware that our responsibilities as professionals extend beyond the justice system to society at large, and to our communities in particular?

Certainly, the safety of our communities is a priority for our Government – and a priority for Canadians.

Tackling Crime: *Youth Justice System*
In the coming months, our Government will turn its focus to the youth justice system.

We hear from Canadians that young offenders are receiving sentences that fail to reflect the seriousness of their crimes.

Our Government has a duty to take these opinions seriously and to work with legal practitioners to maintain the confidence of Canadians in their justice system.

Last fall, we introduced a bill to make it easier to impose pre-trial detention on young persons who pose a risk to public safety.

Since then, I have been travelling across the country to consult with stakeholders, including provincial and territorial governments, who have identified areas of concern and possible improvements to the *Youth Criminal Justice Act*.

In fact, I was in the Atlantic provinces last week and will be continuing these talks over the next few days across the North.

Throughout this review, and the legislative process, we value the views of stakeholders, including the provinces and territories, the bar, the judiciary, community leaders, police, and organizations working with youth in the community.

The views of these stakeholders will become even more important to us as our Government continues to pursue its legislative agenda when Parliament resumes in a month's time.

Tackling Crime: *Tackling Violent Crime Act*
Furthermore, the *Tackling Violent Crime Act*, which is now fully in force, is an important example of how we are acting to strengthen the safety and security of Canadians.

Among other things, this Act raises the age of protection from sexual exploitation, better protects Canadian society from dangerous offenders, and cracks down on alcohol- and drug-impaired driving.

Tackling Crime: Auto Theft and Identity Theft
Another important focus of our Government is property crimes, such as auto theft and identity theft.

Tackling Crime: Organized Crime at the G-8
In fact, I recently had the opportunity to discuss identity-related crime, an emerging and troubling global phenomenon, in Tokyo.

My colleague Stockwell Day and I joined our G-8 counterparts in renewing our commitment to work together on issues such as transnational organized crime, terrorism, and child sexual exploitation.

Also among the matters of concern at the G-8 meeting was the illicit drug trade.

Tackling Crime: National Anti-Drug Strategy
We know the harm that the abuse of illicit drugs can do. The Government's National Anti-Drug Strategy is tackling illicit drug issues in Canada in three key areas: prevention, treatment and enforcement.

We are pursuing this strategy so that we can protect our youth from a life of drugs and crime, show compassion for those who fall victim to illicit drugs, and make our communities safer.

Partnerships
The National Anti-Drug Strategy is an example of the importance we place on partnerships – in this case, with other levels of government, support agencies and policing authorities.

Let me emphasize that partnerships – collaborations for a common purpose – are no less

important in the arena of justice as they are in other fields of endeavour.

As Minister of Justice, I need to hear from all those who have a stake in the justice system.

Next month I will be meeting with my counterparts at the annual Federal/Provincial/Territorial meeting of Ministers Reponsible for Justice here in Québec, and I look forward to the review of the business case for criminal legal aid.

Our Government has provided stable, long-term funding to the provinces and territories for criminal legal aid in Budget 2007.

In addition, these jurisdictions are able to allocate resources from the Canada Social Transfer to areas that include civil legal aid, according to their priorities.

We recognize that legal aid is just one of the many challenges that must be overcome in sustaining access to justice.

I am committed to working with my provincial and territorial colleagues to ensure effective legal aid within a strong justice system.

We need to hear from ordinary Canadians and listen to their concerns. Their views play an important role in our agenda.

They have told us they are concerned with violent youth crime and the serious repercussions of drug abuse in their communities.

And of course, the CBA is an important stakeholder.

We have a long history of dialogue and exchanging ideas. We have built relationships through consulting on legislation and soliciting input through Parliamentary committees, most recently on Bill C-31.

Conclusion
Our justice system will continue to face serious challenges in the near future in many areas, including the pursuit of improved efficiency and accessibility.

Although our Government can do its part to address the needs of the system, we cannot pretend to know all the answers or even all of the questions.

I am confident that all parties involved in the justice system – governments, legal professionals, non-profit and for-profit organizations, and Canadians from all walks of life – will continue to make their respective contributions.

I'd like to stress that there are many areas where we can find common ground.

We want our justice system to be more efficient.

We want Canadians to be safe.

And we want our profession to maintain the highest levels of ethical conduct and integrity so Canadians have confidence both in lawyers and the system in which they work.

To conclude, I'd like to quote from the CBA's Canons of Legal Ethics:
The lawyer is more than a citizen. He is a minister of justice, an officer of the Courts, his client's

advocate, and a member of an ancient, honourable and learned profession...it is his duty to promote the interests of the State, serve the cause of justice, maintain the authority and dignity of the Courts, be faithful to his clients, candid and courteous in his intercourse with his fellows and true to himself.

That we might all strive to these ends.

Thank you.

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